

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

MARCO ANTONIO MARTINEZ,

Defendants.

4:12CR3099

MEMORANDUM AND ORDER

After affording the defendant an opportunity for a detention hearing under the Bail Reform Act, 18 U.S.C. § 3142(f), and finding the defendant violated the terms of his pretrial release, the court concludes the defendant must be detained pending sentencing.

There is a rebuttable presumption that no condition or combination of conditions of release will reasonably assure the defendant's appearance at court proceedings and the safety of the community because there is probable cause to believe the defendant committed a drug crime under the Controlled Substances Act (21 U.S.C. § 801 et seq.), for which the defendant could be required to serve ten or more years in prison. The defendant has not rebutted this presumption.

Specifically, the court finds: The defendant has a propensity to violate the law and orders of the court. His criminal record indicates he has a propensity to harm or threaten harm to others. He has a substance abuse addiction or abuses mood-altering chemicals and is likely to continue such conduct and violate the law if released. The defendant has not fully learned that he must control his temper and comply with rules, and his ongoing rebellious nature poses a risk of harm to the public and a risk of flight that cannot be sufficiently ameliorated by living at home with his mother pending sentencing.

Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or a designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or held in custody pending appeal. The defendant must be afforded a reasonable opportunity to consult privately with defense counsel. On order of United States Court or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to the United States marshal for a court appearance.

February 7, 2013.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge